

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Huntington Pointe Homeowners Association, Inc.

**DEPARTMENT:** County Attorney's Office

**DIVISION:** Litigation

**AUTHORIZED BY:** Lola Pfeil

**CONTACT:** Sharon Sherrer

**EXT:** 7257

**MOTION/RECOMMENDATION:**

Huntington Pointe Homeowners Association, Inc. Approval of a proposed negotiated settlement relating to Parcel Number 126 on the Lake Emma Road improvement project. The proposed negotiated settlement is at the sum of \$37,675.00 inclusive of all land value, improvements, cost to cure, damages, statutory interest, total attorney's fees, expert fees and cost reimbursements. Judge Galluzzo.

District 4 Carlton D. Henley

Bob McMillan

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**BACKGROUND:**

see attached

**STAFF RECOMMENDATION:**

Staff recommends that the Board approve the proposed negotiated settlement relating to Parcel Number 126 on the Lake Emma Road improvement project. The proposed negotiated settlement is at the sum of \$37,675.00 inclusive of all land value, improvements, cost to cure, damages, statutory interest, total attorney's fees, expert fees and cost reimbursements.

**ATTACHMENTS:**

1. Huntington Pointe Homeowners Association, Inc.

<b>Additionally Reviewed By:</b> No additional reviews
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COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

To: Board of County Commissioners

Through: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

From: Al Schwarz, Assistant County Attorney *AS*  
Ext. 5736

Concur: Pam Hastings, Administrative Manager/Public Works Department  
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN 2-20-08*

Date: February 21, 2008

Subject: Settlement Authorization  
Lake Emma Road  
Parcel No. 126  
Owner: Huntington Pointe Homeowners Association, Inc.  
Seminole County v. Huntington Pointe Homeowners Association, Inc.  
• Case No.: 2007-CA-3987-0126-13-L

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 126 on the Lake Emma Road project. The proposed negotiated settlement is \$37,675.00 inclusive of all land value, improvements, cost to cure, damages, statutory interest, total attorney's fees, expert fees and cost reimbursements. The total sum is allocated as follows:

\$31,500.00	land value
<u>\$ 6,175.00</u>	attorney's fees, experts' fee and cost reimbursements
<u>\$37,675.00</u>	Total

**I PROPERTY**

A. Location Data. Parcel No. 126 is part of the common area tracts to the "Huntington Pointe" subdivision located along the west side of Lake Emma Road. A location map depicting the location of the parcel is attached as Exhibit A.

B. Address. The physical address is Tract F of Huntington Pointe Phase I. A Parcel sketch is attached as Exhibit B.

## **II AUTHORITY TO ACQUIRE.**

The BCC adopted Resolution No. 2007-R-29 on February 13, 2007. The Lake Emma Road project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The Order of Take to obtain Parcel No. 126 was successful and occurred on February 7, 2008 with title vesting in Seminole County on February 18, 2008, the date of the good faith deposit in the amount of \$17,500.00.

## **III ACQUISITIONS AND REMAINDER**

The fee acquisition of Parcel No. 126 totaled 7,045 square feet from Tract F which contains 1.497 acres leaving a remainder of 1.335 acres.

## **IV APPRAISED VALUES**

A. County Report. The County's reports were prepared by The Spivey Group, Inc. The initial appraisal for Parcel No. 126 was performed on August 21, 2003 and reported full compensation at \$4,900.00. After the appraisal was performed, the Lake Emma project was brought to a halt. After the Lake Emma road improvement project was reinstituted as the result of Resolution No. 2007-R-29, another appraisal was performed for Parcel No. 126 as of March 5, 2007 reporting full compensation at \$15,600.00. The updated appraisal for the Order of Taking showed the value as of December 15, 2007, to be \$17,500.00.

B. Owner's Report. The owner has not had an appraisal prepared but hired an MAI appraiser to review the County's appraisal reports.

## **V BINDING OFFERS/NEGOTIATION**

The Board approved a binding written offer of \$23,000.00 based on the initial appraisal on June 14, 2007. However, the property owner's counsel has produced a document alleged to be an initial offer in the amount of \$5,390.00 on March 3, 2004 before the project was brought to a halt.

The issue in this case involved the value of the land as diminished by a utility easement and the disputed cost of a particular improvement. Also, an issue was raised by the property owner's attorney that the attorney's fees and cost reimbursements should be based upon the alleged offer of \$5,390.00 sent by the County in 2004. If that were the case, it would have resulted in increased cost reimbursements as well as statutory attorney's fees in the amount of \$8,616.00.

County staff contacted the property owner's attorney with a recent counteroffer at \$29,850.00 exclusive of any and all fees and costs. Through subsequent negotiations, the parties agreed to total compensation of \$37,675.00 for all land value, attorney's fees, experts' fees and cost reimbursements. The compensation for land value,

improvements, cost to cure, damages, and statutory interest is at \$31,500.00 with an additional \$6,175.00 allocated for attorney's fees, expert fees for the MAI appraiser and cost reimbursements.

## **VI ATTORNEY'S FEES AND COST REIMBURSEMENTS**

The amount of \$6,175.00 was allocated for attorney's fees and expert fees for the MAI appraiser and cost reimbursements. Statutory attorney's fees based on the written offer of \$23,000.00 on June 14, 2007 would have been \$2,805.00.

## **VII COST AVOIDANCE**

By this settlement, the County avoids all additional costs associated with litigation, including a cost hearing regarding a written offer made in 2004.

## **VIII RECOMMENDATION**

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$37,675.00 inclusive of all land value, improvements, cost to cure, damages, statutory interest, total attorney's fees, expert fees and cost reimbursements.

AHS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

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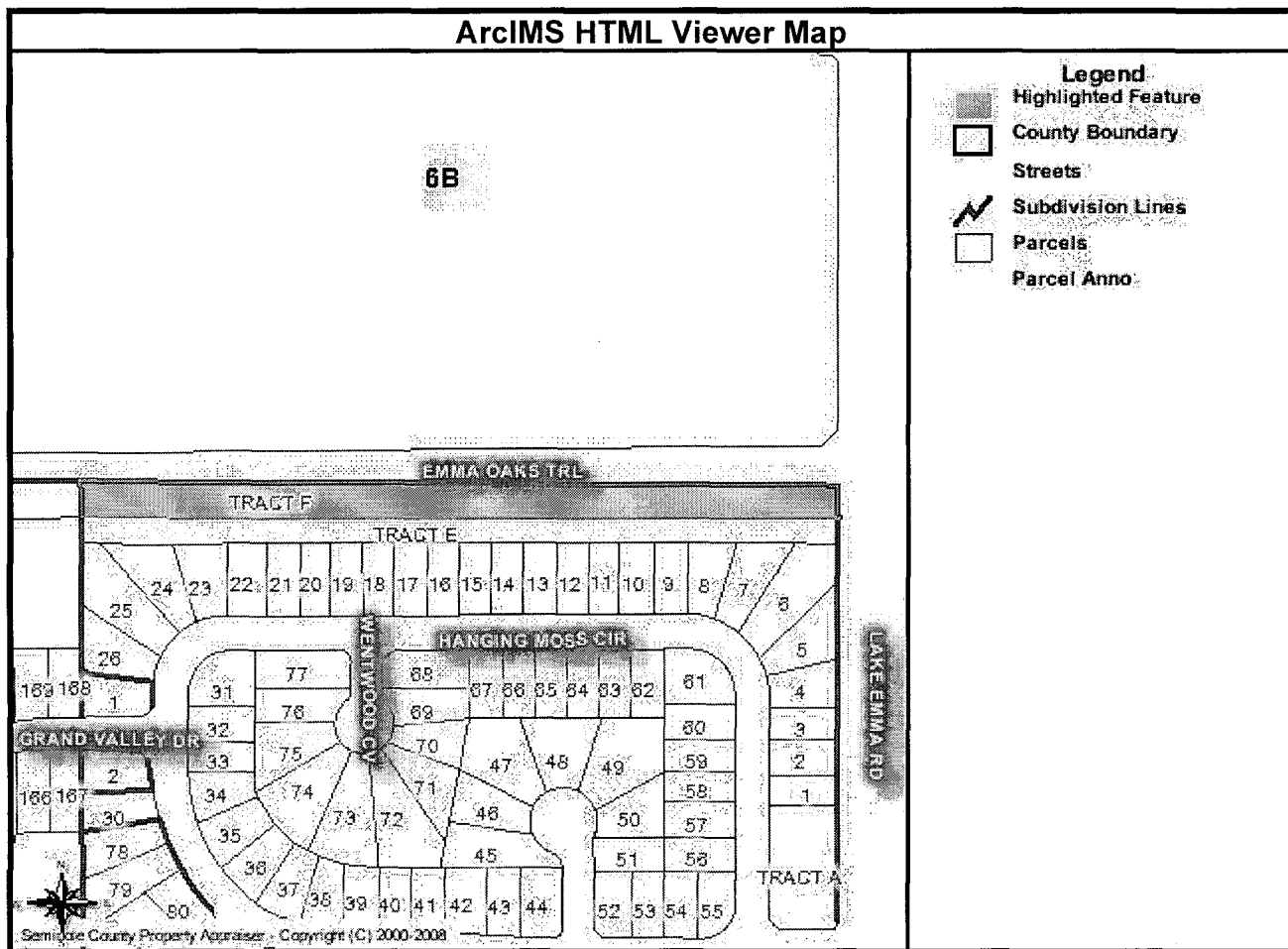


EXHIBIT A

